

Remarks:

Response to Restriction without Traverse

This Response is to the Official Communication dated March 15, 2009 to respond to the Notice of Non-Compliant Amendment, wherein a complete listing of the claims was needed to be added to the response, which this response includes the complete listing of the claims. This response originally stemming from the from the restriction requirement dated March 10, 2009, wherein claims 9-11, 23-25, and 33-43 were pending and were made subject of a restriction requirement. Under 35 U.S.C. 121, in the Office Action on page 2, paragraph 1, the Examiner identified:

Group 1 claims 9–11 and 23-25 as drawn to a perceptible apparatus classified in 607/88.

Group 2 claims 33–43 as drawn to a method of using a perceptible apparatus classified in 128/898.

Further in Group 2, the Examiner identified the following species;

Species 1 a method of creating a desired effect in claims 33-37 and 42

Species 2 a method of creating a desired effect in a crystal in claim 38

Species 3 a method of calibrating in claims 39-40

Species 4 a method of replicating in claim 41

Application No. 10/596,376

Species 5 a method of biofeedback in claim 43

Applicant accepts the restriction requirement with respect to Groups 1 and 2, and Species 1-5 above as being patentably distinct groupings.

Applicant elects to pursue Group 2 / Species 3 above relating to claims 39-40 that result in the following claim amendments;

Claims 9-11, 23-25, 33-38, and 41-43 are cancelled, wherein claims 39 and 40 remain as originally filed, and wherein claims 1-8, 12-22, and 26-32 were previously cancelled.

Applicant respectfully requests that a timely notice of allowance be issued in this case.

Respectfully submitted,

Roger A. Jackson, Esq.

BY: /Roger A. Jackson/

Roger A. Jackson
USPTO Registration No. 44,797
USPTO Customer No. 24254
209 Kalamath Street, Unit 9
Denver, Colorado 80223-1348
Phone: (303) 271-9468
Fax: (303) 216-2967
Email: roger@jacksonesquire.com
Website: www.jacksonesquire.com

Application No. 10/596,376